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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BEVERLY J. WATKINS, an individual,

Plaintiff,

vs.

UNIVERSITY MEDICAL CENTER a.k.a
UNIVERSITY MEDICAL CENTER OF
SOUTHERN NEVADA a.k.a. UMC, a
political subdivision of Nevada; DOES I-V;
ROES VI-X,

Defendants.

CASE NO: 2:16-cv-01105-APG-PAL

STIPULATED PROTECTIVE ORDER

Plaintiff, BEVERLY WATKINS (“Plaintiff”), by and through the Law Office of Dan M. Winder, P.C. and Defendant, UNIVERSITY MEDICAL CENTER OF SOUTHERN NEVADA (“Defendant”) by and through the law firm of Morris, Sullivan, Lemkul & Pitegoff, LLP, hereby stipulate and agree as follows:

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation is warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket

1 protections on all disclosures or responses to discovery and that the protection it affords extends
2 only to the limited disclosures or responses to discovery and that the protection it affords extends
3 only to the limited information or items that are entitled under the applicable legal principles to
4 treatment as confidential.

5 2. DEFINITIONS

6 2.1 Party: any party to this action, including all of its officers, directors,
7 employees, consultants, retained experts, carrier representatives and outside counsel (and their
8 support staff).

9 2.2 Disclosure or Discovery Material: all items or information, regardless of
10 the medium or manner generated, stored, or maintained (including, among other things,
11 testimony, transcripts, or tangible things) that are produced or generated in disclosures or
12 responses to discovery in this matter.

13 2.3 "Confidential" Information or Items: information (regardless of how
14 generated, stored or maintained) or tangible things that qualify for protection under standards
15 developed under F.R.Civ.P. 26(c).

16 2.5 Receiving Party: a Party that receives Disclosure or Discovery or
17 Discovery Material from a Producing Party.

18 2.6 Producing Party: a Party or non-party that produces Disclosure or
19 Discovery Material in this action.

20 2.7 Designating Party: a Party or non-party that designates information or
21 items that it produces in disclosures or in responses to discovery as "Confidential."

22 2.8 Protected Material: any Disclosure or Discovery Material that is
23 designated as "Confidential."

24 2.9 Outside Counsel: attorneys who are not employees of a Party but who are
25 retained to represent or advise a Party in this action, including coverage counsel and/or a carrier's
26 claims counsel.

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1 2.10 House Counsel: attorneys who are employees of a Party.

2 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well
3 as their support staffs).

4 2.12 Expert: a person with specialized knowledge or experience in a matter
5 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert
6 witness or as a consultant in this action and who is not a past or a current employee of a Party or
7 of a competitor of a Party's and who, at the time of retention, is not anticipated to become an
8 employee of a Party or a competitor of a Party's. This definition includes a professional jury or
9 trial consultant retained in connection with this litigation.

10 2.13 Professional Vendors: persons or entities that provide litigation support
11 services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations;
12 organizing, storing, retrieving data in any form or medium; etc.) and their employees and
13 subcontractors.

14 3. SCOPE

15 The protections conferred by this Stipulation and Order cover not only Protected Material
16 (as defined above), but also any information copied or extracted therefrom, as well as all copies,
17 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
18 parties or counsel to or in court or in other settings that might reveal Protected Material.

19 4. DURATION

20 Even after the termination of this litigation, the confidentiality obligations imposed by
21 this Order shall remain in effect until a Designating Party agrees otherwise in writing, a court
22 order otherwise directs, or seven (7) years from the date of execution of this Protective Order
23 have elapsed.

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Exercise of Restraint and Care in Designating Material for Protection.

26 Each Party or non-party that designates information or items for protection under this
27 Order must take care to limit any such designation to specific material that qualifies under the
28 appropriate standards. A Designating Party must take care to designate for protection only those

1 parts of material, documents, items, or oral or written communications that qualify -- so that
2 other portions of the material, documents, items, or communications for which protection is not
3 warranted are not swept unjustifiably within the ambit of this Order.

4 Mass, indiscriminate, or routine designations are prohibited. Designations that are shown
5 to be clearly unjustified, or that have been made for an improper purpose (e.g., to unnecessarily
6 encumber or retard the case development process, or to impose unnecessary expenses and
7 burdens on other parties), expose the Designating Party to sanctions.

8 If it comes to a Party's or a non-party's attention that information or items that it
9 designated for protection do not qualify for protection at all, or do not qualify for the level of
10 protection initially asserted, that Party or non-party must promptly notify all other parties that it
11 is withdrawing the mistaken designation.

12 5.2 Manner and Timing of Designations: Except as otherwise provided in this
13 Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or
14 ordered, material that qualifies for protection under this Order must be clearly so designated
15 before the material is disclosed or produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (apart from transcripts of
18 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
19 "CONFIDENTIAL" on each page that contains protected material.

20 A Party or non-party that makes original documents or materials available for inspection
21 need not designate them for protection until after the inspecting Party has indicated which
22 material it would like copied and produced. During the inspection and before the designation, all
23 of the material made available for inspection shall be deemed "CONFIDENTIAL." After the
24 inspecting Party has identified the documents it wants copied and produced, the Producing Party
25 must determine which documents, or portions thereof, qualify for protection under this Order,
26 then, before producing the specified documents, the Producing Party must affix the legend

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1 "CONFIDENTIAL" at the top of each page that contains Protected Material. If only a portion or
2 portions of the material on a page qualifies for protection the Producing Party also must clearly
3 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

4 (b) for testimony given in deposition or in other pretrial or trial
5 proceedings, that the Party or non-party offering or sponsoring the testimony identify on the
6 record, before the close of the deposition, hearing, or other proceeding, all protected testimony.
7 When it is impractical to identify separately each portion of testimony that is entitled to
8 protection, and when it appears that substantial portions of the testimony may qualify for
9 protection, the Party or non-party that sponsors, offers, or gives the testimony will have a right to
10 have up to 20 days to identify the specific portions of the testimony as to which protection is
11 sought.

12 Transcript pages containing Protected Material must be separately bound by the court
13 reporter, who must affix to the top of each such page the legend "CONFIDENTIAL" as
14 instructed by the Party or non-party offering or sponsoring the witness or presenting the
15 testimony.

16 (c) for information produced in some form other than documentary
17 and for any other tangible items, that the Producing Party affix in a prominent place on the
18 exterior of the container or containers in which the information or item is stored the legend
19 "CONFIDENTIAL." If only portions of the information or item warrant protection, the
20 Producing Party, to the extent practicable, shall identify the protected portions.

21 5.3 Inadvertent Failures to Designate: If timely corrected, an inadvertent
22 failure to designate qualified information or items as "Confidential" does not, standing alone,
23 waive the Designating Party's right to secure protection under this Order for such material. If
24 material is appropriately designated as "Confidential" after the material was initially produced,
25 the Receiving Party, on timely notification of the designation, must make reasonable efforts to
26 assure that the material is treated in accordance with the provisions of this Order.

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1 Any party who inadvertently fails to identify documents as "Confidential" shall have 10
2 days from the discovery of its oversight to correct its failure. Such failure shall be corrected by
3 providing written notice of the error and substituted copies of the inadvertently produced
4 documents. Any party receiving such inadvertently unmarked documents shall make reasonable
5 efforts to retrieve documents distributed to persons not entitled to receive documents with the
6 corrected designation.

7 5.4 Inadvertent Production: If information is produced in discovery that is
8 subject to a claim of privilege or of protection as trial-preparation material, the party making the
9 claim may notify any party that received the information of the claim and the basis for it. After
10 being notified, the Receiving Party shall promptly return, sequester, or destroy such
11 inadvertently produced documents, including all copies. A Receiving Party may present the
12 information to the court under seal for a determination of the claim only after it has engaged in
13 the Meet and Confer process outlined at 6.2 below. The Receiving Party may challenge the
14 Producing Party's claim or the timeliness and sufficiency of the Producing Party's notice related
15 to the claim, or assert that the circumstances surrounding the production or disclosure warrant a
16 finding that the Producing Party has waived any claim of privilege.

17 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

18 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's
19 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
20 economic burdens, or a later significant disruption or delay of the litigation, a Party does not
21 waive its right to challenge a confidentiality designation by electing not to mount a challenge
22 promptly after the original designation is disclosed.

23 6.2 Meet and Confer. A Party that elects to initiate a challenge to a
24 Designating Party's confidentiality designation must do so in good faith and must begin the
25 process by conferring directly (in voice to voice dialogue; other forms of communication are not
26 sufficient) with counsel for the Designating Party. In conferring, the challenging Party must
27 explain the basis for its belief that the confidentiality designation was not proper and must give
28 the Designating Party an opportunity to review the designated material, to reconsider the

1 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
2 designation. A challenging Party may proceed to the next stage of the challenge process only if it
3 has engaged in this meet and confer process first.

4 6.3 Judicial Intervention. If the parties are unable to come to agreement during
5 the meet and confer process, the Challenging Party shall give notice to the attorney for the
6 Designating Party that the matter is at an impasse, both in writing (which may be by email or
7 fax) and by an attorney to attorney communication (either in person or by telephone). Upon the
8 completion of both such notices, the Designating Party shall have 21 days to file and serve an
9 appropriate motion that identifies the challenged material and sets forth the basis for the
10 designation. Each such motion must be accompanied by a competent declaration that affirms
11 that the movant has complied with the meet and confer requirements imposed in the preceding
12 paragraph and that sets forth with specificity the justification for the confidentiality designation
13 that was given by the Designating Party in the meet and confer dialogue

14 The burden of persuasion in any such challenge proceeding shall be on the Party
15 designating the material. Until the court rules on the challenge, all parties shall continue to afford
16 the material in question the level of protection to which it is entitled under the Producing Party's
17 designation.

18 7. ACCESS TO AND USE OF PROTECTED MATERIAL

19 7.1 Basic Principles. A Receiving Party may use Protected Material that is
20 disclosed or produced by another Party or by a non-party in connection with this case only for
21 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
22 disclosed only to the categories of persons and under the conditions described in this Order.
23 When the litigation has been terminated, a Receiving Party must comply with the provisions of
24 section 11, below (FINAL DISPOSITION).

25 Protected Material must be stored and maintained by a Receiving Party at a location and
26 in a secure manner that ensures that access is limited to the persons authorized under this Order.

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1 7.2 Disclosure of "Confidential" Information or Items. Unless otherwise
 2 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
 3 disclose any information or item designated CONFIDENTIAL only to:

4 (a) the Receiving Party's Outside Counsel of record in this action, as
 5 well as employees of said Counsel to whom it is reasonably necessary to disclose the information
 6 for this litigation and who have signed the "Agreement to Be Bound by Protective Order" that is
 7 attached hereto as Exhibit A;

8 (b) Nori Evans, if disclosure is reasonably necessary for this litigation
 9 and if she has signed the Agreement to Be Bound by Protective Order" (Exhibit A);

10 (c) experts (as defined in this Order) of the Receiving Party to whom
 11 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be
 12 Bound by Protective Order" (Exhibit A);

13 (d) the Court and its personnel;

14 (e) court reporters, their staffs, and professional vendors to whom
 15 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be
 16 Bound by Protective Order" (Exhibit A);

17 (f) during their depositions, witnesses in the action to whom
 18 disclosure is reasonably necessary and who have signed the "Agreement to Be Bound by
 19 Protective Order" (Exhibit A). Pages of transcribed deposition testimony or exhibits to
 20 depositions that reveal Protected Material must be separately bound by the court reporter and
 21 may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

22 (g) the author of the document or the original source of the
 23 information.

24 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
 25 OTHER LITIGATION

26 If a Receiving Party is served with a subpoena or an order issued in other litigation that
 27 would compel disclosure of any information or items designated in this action as
 28 "CONFIDENTIAL" the Receiving Party must so notify the Designating Party, in writing (by fax,

1 if possible) immediately and in no event more than three court days, or as soon as is practicable,
2 after receiving the subpoena or order. Such notification must include a copy of the subpoena or
3 court order.

4 The Receiving Party also must immediately inform in writing the Party who caused the
5 subpoena or order to issue in the other litigation that some or all the material covered by the
6 subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must
7 deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that
8 caused the subpoena or order to issue.

9 The purpose of imposing these duties is to alert the interested parties to the existence of
10 this Protective Order and to afford the Designating Party in this case an opportunity to try to
11 protect its confidentiality interests in the court from which the subpoena or order issued. The
12 Designating Party shall bear the burdens and the expenses of seeking protection in that court of
13 its confidential material - and nothing in these provisions should be construed as authorizing or
14 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

15 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

16 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
17 Material to any person or in any circumstance not authorized under this Stipulated Protective
18 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
19 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material,
20 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
21 this Order, and (d) request such person or persons to execute the "Acknowledgment and
22 Agreement to Be Bound" that is attached hereto as Exhibit A.

23 9. FINAL DISPOSITION.

24 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days,
25 or as soon as is practicable, after the final termination of this action, each Receiving Party must
26 return all Protected Material to the Producing Party. As used in this subdivision, "all Protected
27 Material" includes all copies, abstracts, compilations, summaries or any other form of
28 reproducing or capturing any of the Protected Material. With permission in writing from the

1 Designating Party, the Receiving Party may destroy some or all of the Protected Material instead
2 of returning it. Whether the Protected Material is returned or destroyed the Receiving Party must
3 submit a written certification to the Producing Party (and, if not the same person or entity, to the
4 Designating Party) by the deadline that identifies (by category, where appropriate) all the
5 Protected Material that was returned or destroyed and that affirms that the Receiving Party has
6 not retained any copies, abstracts, compilations, summaries or other forms of reproducing or
7 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to
8 retain an archival copy of all pleadings, motion papers, transcripts, legal memoranda,
9 correspondence or attorney work product, even if such materials contain Protected Material. Any
10 such archival copies that contain or constitute Protected Material remain subject to this
11 Protective Order as set forth in Section 4 (DURATION), above.

12 10. MISCELLANEOUS

13 10.1 Right to Further Relief. Nothing in this Order abridges the right of any
14 person to seek its modification by the Court in the future.

15 10.2 Right to Assert Other Objections. By stipulating to the entry of this
16 Protective Order no Party waives any right it otherwise would have to object to disclosing or
17 producing any information or item on any ground not addressed in this Stipulated Protective
18 Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of
19 the material covered by this Protective Order.

20 The Court may modify the stipulated protective order in the interests of justice or for
21 public policy reasons.

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1 Nothing shall be filed under seal, and the Court shall not be required to take any action,
2 without separate prior order by the judge before whom the hearing or proceeding will take place,
3 after application by the affected party with appropriate notice to opposing counsel.

4 **IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.**

5 DATED this 29th day of March,, 2017. DATED this 29th day of March, 2017.

6 Law Office of Dan M. Winder, P.C. Morris, Sullivan, Lemkul & Pitegoff

7 /s/ Kristina Miletovic.

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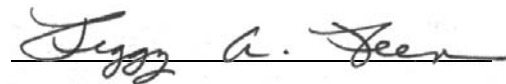
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Attorney for Defendant

20 **ORDER**

21 IT IS SO ORDERED.

22 DATED: March 31, 2017

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24 UNITED STATES MAGISTRATE JUDGE